

May 14, 2009

A Regular Meeting of the Zoning Board of Appeals of the Town of Lancaster, Erie County, New York, was held at the Lancaster Town Hall, 21 Central Avenue, Lancaster, New York, on the 14th day of May at 8:00 P.M., and there were

PRESENT:           JAMES PERRY, MEMBER  
                          LAWRENCE PIGNATARO, MEMBER  
                          RICHARD QUINN, MEMBER  
                          ARLIE SCHWAN, MEMBER  
                          ROBERT THILL, MEMBER  
                          JEFFREY LEHRBACH, CHAIRMAN

ABSENT:            MARK AQUINO, MEMBER

ALSO PRESENT:    JOHANNA M. COLEMAN, TOWN CLERK  
                          JEFFREY SIMME, BUILDING INSPECTOR  
                          NICHOLAS LOCICERO, TOWN PROSECUTOR

The Affidavits of Publication and Posting of this Public Hearing are on file and a copy of the Legal Notice has been posted.

**PETITION OF NATALIE & JOHN LAJOIE:**

THE CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Natalie and John Lajoie, 53 Avian Way, Lancaster, New York 14086 for one [1] variance for the purpose of erecting a four [4] foot high fence in a required open space area on premises owned by the petitioners at 53 Avian Way, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster. The premises upon which this variance is sought is a corner lot fronting on Avian Way with an exterior side yard [considered a front yard equivalent] fronting on Apple Blossom Boulevard. The petitioners propose to erect a four [4] foot high fence within the required open space area of the exterior side yard fronting on Apple Blossom Boulevard.

Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster limits the height of a fence or wall extending into a front yard or an exterior side yard [considered a front yard equivalent] to three [3] feet in height. The petitioners, therefore, request a one [1] foot fence height variance.

**The Clerk presented and entered into evidence the following items:**

Duly executed petition of the applicants with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioners of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

Natalie Lajoie, petitioner	Proponent
John Lajoie, petitioner	Proponent

**IN THE MATTER OF THE PETITION OF NATALIE & JOHN LAJOIE**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. THILL, WHO MOVED ITS  
ADOPTION, SECONDED BY MR. PIGNATARO  
TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Natalie and John Lajoie and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 14th day of May 2009, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

**WHEREAS**, the applicants are the present owners of the premises in question.

**WHEREAS**, the property for which the applicants are petitioning is within a Residential District 1, (R-1) as shown on the Zoning Map of the Town of Lancaster.

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicants cannot be achieved by some other method, feasible for the applicants to pursue, other than the area variance relief sought.

That the requested area variance relief is not substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicants if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

That such fence will not unduly shut out light or air to adjoining properties.

That such fence will not create a fire hazard by reason of its construction or location.

**NOW, THEREFORE, BE IT**

**RESOLVED** that based upon these findings, the relief sought be and is hereby **GRANTED**-subject to the following conditions which in the opinion of this board are appropriate conditions to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:

- That the variance granted herein is strictly for a four (4) foot black chain link fence.
- That any replacement or alteration to the fence shall be of like kind and quality, namely a black chain link fence which allows the passage of air and light.
- That no additions or alterations shall be made to this fence such as the weaving of slats nor shall it be covered with material that would block out the passage of air or light.
- That the angles of the fence on Apple Blossom Boulevard be changed from their present angles of 90° to angles of at least 120°, to be approved by the Building Inspector of the Town of Lancaster based upon an on site review.
- That the fence shall be set back five (5) feet from the property line on Apple Blossom Boulevard.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. AQUINO	WAS ABSENT
MR. PERRY	VOTED YES
MR. PIGNATARO	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The resolution granting the variance was thereupon **ADOPTED**.

May 14, 2009

ON MOTION DULY MADE, SECONDED AND CARRIED, the meeting was adjourned at 8:27 P.M.

Signed \_\_\_\_\_  
Johanna M. Coleman, Town Clerk and  
Clerk, Zoning Board of Appeals  
May 14, 2009